

HOUSE BILL 557

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2004 Regular Session
(4r1181)

ENROLLED BILL

-- Health and Government Operations/Education, Health, and Environmental Affairs --

Introduced by Delegates Morhaim and Boutin, Boutin, Hurson, Hammen, Oaks, Murray, Benson, Mandel, Goldwater, Nathan-Pulliam, Hubbard, Rosenberg, Pendergrass, and V. Turner

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Advance Directive Information Availability Act**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene, in
4 consultation with the Office of the Attorney General, to develop a ~~form~~ an
5 information sheet that provides certain information relating to advance
6 directives; requiring the Department, in consultation with the Office of the
7 Attorney General, to provide certain information on an advance directive to an
8 individual upon application to certain assistance programs develop and
9 implement a plan for making certain information relating to advance directives
10 widely available, and to make certain information on ~~an~~ advance directive
11 directives available in each local health department and local department of
12 social services; requiring the Department to implement a certain plan on or
13 before a certain date; requiring the Office of the Attorney General to consult
14 with certain interested parties regarding a certain plan and development of the
15 advance directive information ~~form~~ sheet; requiring the Motor Vehicle

1 Administration to provide certain information ~~on an advance directive relating~~
 2 ~~to advance directives~~ to an applicant for a driver's license or identification card;
 3 ~~and to provide a method by which an individual can designate on the driver's~~
 4 ~~license or identification card that the individual has an advance directive;~~
 5 requiring an insurance carrier to provide certain information ~~on an advance~~
 6 ~~directive relating to advance directives~~ in the carrier's ~~marketing and open~~
 7 ~~enrollment materials and member publications, on the carrier's website, and~~
 8 ~~upon request of the member under certain circumstances;~~ requiring information
 9 ~~on an advance directive to providing that the information relating to advance~~
 10 ~~directives may shall~~ include certain written statements; ~~requiring the Maryland~~
 11 ~~Health Care Commission to include certain data on advance directives in a~~
 12 ~~certain annual evaluation;~~ requiring the Department of Health and Mental
 13 Hygiene to make a certain report to certain committees of the General Assembly
 14 on or before a certain date; ~~requiring the Motor Vehicle Administration to make~~
 15 ~~a certain report to certain committees of the General Assembly on or before a~~
 16 ~~certain date;~~ defining certain terms; and generally relating to increasing the
 17 availability of information on advance directives.

18 BY repealing and reenacting, without amendments,
 19 Article - Health - General
 20 Section 5-601(a) and (b) and 19-134(c)
 21 Annotated Code of Maryland
 22 (2000 Replacement Volume and 2003 Supplement)

23 BY repealing and reenacting, with amendments,
 24 Article - Health - General
 25 Section 5-615 ~~and 19-134(e)~~
 26 Annotated Code of Maryland
 27 (2000 Replacement Volume and 2003 Supplement)

28 BY adding to
 29 Article - Health - General
 30 Section 15-109.1
 31 Annotated Code of Maryland
 32 (2000 Replacement Volume and 2003 Supplement)

33 BY adding to
 34 Article - Insurance
 35 Section 15-122.1
 36 Annotated Code of Maryland
 37 (2002 Replacement Volume and 2003 Supplement)

38 BY adding to
 39 Article - Transportation
 40 Section 12-303.1

1 Annotated Code of Maryland
2 (2002 Replacement Volume and 2003 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Health - General**

6 5-601.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) "Advance directive" means:

9 (1) A witnessed written document, voluntarily executed by the declarant
10 in accordance with the requirements of this subtitle; or

11 (2) A witnessed oral statement, made by the declarant in accordance
12 with the provisions of this subtitle.

13 5-615.

14 (a) In this section, "health care facility" has the meaning stated in § 19-114 of
15 this article.

16 (b) Each health care facility shall provide each individual on admittance to the
17 facility information concerning the rights of the individual to make decisions
18 concerning health care, including the right to accept or refuse treatment, and the
19 right to make an advance directive, including a living will.

20 (C) (1) ~~IN THIS SUBSECTION, "INFORMATION ON AN ADVANCE DIRECTIVE"~~
21 ~~INCLUDES THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF THE~~
22 ~~ATTORNEY GENERAL, SHALL DEVELOP A FORM AN INFORMATION SHEET THAT~~
23 ~~PROVIDES INFORMATION RELATING TO ADVANCE DIRECTIVES, WHICH MAY SHALL~~
24 ~~INCLUDE:~~

25 (I) WRITTEN STATEMENTS INFORMING AN INDIVIDUAL THAT AN
26 ADVANCE DIRECTIVE:

27 1. IS A USEFUL, LEGAL, AND WELL-ESTABLISHED WAY FOR
28 AN INDIVIDUAL TO DIRECT MEDICAL CARE;

29 2. ALLOWS AN INDIVIDUAL TO SPECIFY THE MEDICAL CARE
30 THAT THE INDIVIDUAL WILL RECEIVE AND CAN ALLEVIATE CONFLICT AMONG
31 FAMILY MEMBERS AND HEALTH CARE PROVIDERS;

32 3. CAN ENSURE THAT AN INDIVIDUAL'S RELIGIOUS BELIEFS
33 ARE CONSIDERED WHEN DIRECTING MEDICAL CARE;

- 1 4. IS MOST EFFECTIVE IF COMPLETED IN CONSULTATION
 2 WITH FAMILY MEMBERS, OR LEGAL AND RELIGIOUS ADVISORS, IF AN INDIVIDUAL
 3 DESIRES;
- 4 5. CAN BE REVOKED OR CHANGED AT ANY TIME;
- 5 6. IS AVAILABLE IN MANY FORMS, INCLUDING MODEL
 6 FORMS DEVELOPED BY RELIGIOUS ORGANIZATIONS, ESTATE PLANNERS, AND
 7 LAWYERS;
- 8 7. DOES NOT HAVE TO BE ON ANY SPECIFIC FORM AND CAN
 9 BE PERSONALIZED; AND
- 10 8. IF COMPLETED, SHOULD BE COPIED FOR AN INDIVIDUAL'S
 11 FAMILY MEMBERS, PHYSICIANS, AND LEGAL ADVISORS; AND

12 (II) THE FOLLOWING WRITTEN STATEMENTS:

- 13 1. THAT AN INDIVIDUAL SHOULD DISCUSS THE
 14 APPOINTMENT OF A HEALTH CARE AGENT WITH THE POTENTIAL APPOINTEE;
- 15 2. THAT ADVANCE DIRECTIVES ARE FOR INDIVIDUALS OF
 16 ALL AGES, ~~AND THAT THE MOST NOTEWORTHY CASES IN ADVANCE DIRECTIVE LAW~~
 17 ~~INVOLVE INDIVIDUALS UNDER AGE 30;~~
- 18 3. ~~THAT~~ IN THE ABSENCE OF AN APPOINTED HEALTH CARE
 19 AGENT, THE NEXT OF KIN MAKE AN INDIVIDUAL'S HEALTH CARE DECISIONS WHEN
 20 THE INDIVIDUAL IS INCAPABLE OF MAKING THOSE DECISIONS; AND
- 21 4. THAT AN INDIVIDUAL IS NOT REQUIRED TO COMPLETE AN
 22 ADVANCE DIRECTIVE.

23 (2) ~~INFORMATION ON AN ADVANCE DIRECTIVE THE FORM~~
 24 INFORMATION SHEET DEVELOPED BY THE DEPARTMENT UNDER THIS SUBSECTION
 25 SHALL BE PROVIDED BY:

26 (I) THE DEPARTMENT, IN ACCORDANCE WITH § 15-109.1 OF THIS
 27 ARTICLE;

28 (II) THE MOTOR VEHICLE ADMINISTRATION, IN ACCORDANCE WITH
 29 § 12-303.1 OF THE TRANSPORTATION ARTICLE; AND

30 (III) A CARRIER, IN ACCORDANCE WITH § 15-122.1 OF THE
 31 INSURANCE ARTICLE.

32 (3) THE INFORMATION SHEET DEVELOPED BY THE DEPARTMENT
 33 UNDER THIS SUBSECTION MAY NOT CONTAIN OR PROMOTE A SPECIFIC ADVANCE
 34 DIRECTIVE FORM.

1 15-109.1.

2 (A) ~~IN THIS SECTION, "INFORMATION ON AN ADVANCED DIRECTIVE" HAS THE~~
3 ~~MEANING STATED IN § 5-615(C) OF THIS ARTICLE.~~

4 ~~(B) THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF THE~~
5 ~~ATTORNEY GENERAL, SHALL:~~

6 ~~(1) PROVIDE INFORMATION ON AN ADVANCE DIRECTIVE TO AN~~
7 ~~INDIVIDUAL ON APPLICATION TO THE:~~

8 ~~(I) PROGRAM;~~

9 ~~(II) MARYLAND PHARMACY ASSISTANCE PROGRAM;~~

10 ~~(III) MARYLAND PRESCRIPTION DRUG PROGRAM; AND~~

11 ~~(IV) ANY OTHER ASSISTANCE PROGRAM OFFERED BY THE~~
12 ~~DEPARTMENT.~~

13 ~~(1) DEVELOP AND IMPLEMENT A PLAN FOR MAKING THE ADVANCE~~
14 ~~DIRECTIVE INFORMATION FORM SHEET DEVELOPED UNDER § 5-615 OF THIS ARTICLE~~
15 ~~WIDELY AVAILABLE; AND~~

16 ~~(2) MAKE INFORMATION ON AN ADVANCE DIRECTIVE THE FORM~~
17 ~~INFORMATION SHEET DESCRIBED IN ITEM (1) OF THIS SUBSECTION AVAILABLE IN A~~
18 ~~CONSPICUOUS LOCATION IN EACH LOCAL HEALTH DEPARTMENT, AND IN EACH~~
19 ~~LOCAL DEPARTMENT OF SOCIAL SERVICES, AND IN COMMUNITY HEALTH CENTERS.~~

20 ~~(B) THE DEPARTMENT SHALL IMPLEMENT THE PLAN ON OR BEFORE JUNE 30,~~
21 ~~2005.~~

22 ~~(C) DURING THE DEVELOPMENT OF THE PLAN UNDER SUBSECTION (A) OF~~
23 ~~THIS SECTION AND THE FORM INFORMATION SHEET UNDER § 5-615 OF THIS~~
24 ~~ARTICLE, THE OFFICE OF THE ATTORNEY GENERAL SHALL CONSULT WITH ANY~~
25 ~~INTERESTED PARTY INCLUDING THE STATE ADVISORY COUNCIL ON QUALITY CARE~~
26 ~~AT THE END OF LIFE.~~

27 19-134.

28 (c) (1) The Commission shall:

29 (i) Establish and implement a system to comparatively evaluate
30 the quality of care outcomes and performance measurements of health maintenance
31 organization benefit plans and services on an objective basis; and

32 (ii) Annually publish the summary findings of the evaluation.

33 (2) The purpose of a comparable performance measurement system
34 established under this subsection is to assist health maintenance organization benefit
35 plans to improve the quality of care provided by establishing a common set of

1 performance measurements and disseminating the findings of the performance
2 measurements to health maintenance organizations and interested parties.

3 (3) The system, where appropriate, shall solicit performance information
4 from enrollees of health maintenance organizations.

5 (4) (i) The Commission shall adopt regulations to establish the system
6 of evaluation provided under this subsection.

7 (ii) Before adopting regulations to implement an evaluation system
8 under this subsection, the Commission shall consider any recommendations of the
9 quality of care subcommittee of the Group Health Association of America and the
10 National Committee for Quality Assurance.

11 (5) The Commission may contract with a private, nonprofit entity to
12 implement the system required under this subsection provided that the entity is not
13 an insurer.

14 (6) The annual evaluation summary required under paragraph (1) of this
15 subsection shall:

16 (i) Include a summary of the Drug Formulary Accreditation
17 Standards of the National Committee for Quality Assurance (NCQA); {and}

18 (ii) Indicate whether the formulary development process of each
19 health maintenance organization evaluated complies with the National Committee
20 for Quality Assurance (NCQA) accreditation standards; ~~AND~~

21 ~~(iii) INCLUDE DATA ON THE NUMBER OF ADULTS IN EACH HEALTH~~
22 ~~MAINTENANCE ORGANIZATION EVALUATED WHO:~~

23 ~~1. ARE PROVIDED INFORMATION ON AN ADVANCE~~
24 ~~DIRECTIVE, IN ACCORDANCE WITH § 5-615(C) OF THE HEALTH - GENERAL ARTICLE;~~
25 ~~AND~~

26 ~~2. HAVE COMPLETED AN ADVANCE DIRECTIVE.~~

27 **Article - Insurance**

28 15-122.1.

29 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
30 INDICATED.

31 (2) "ADVANCE DIRECTIVE" HAS THE MEANING STATED IN § 5-601 OF THE
32 HEALTH - GENERAL ARTICLE.

33 (3) (1) "CARRIER" MEANS:

34 ~~(4)~~ 1. AN INSURER;

1 ~~(C) IF THE APPLICANT DESIGNATES THAT THE APPLICANT HAS AN ADVANCE~~
2 ~~DIRECTIVE, THE ADMINISTRATION SHALL MAKE A NOTATION THAT THE APPLICANT~~
3 ~~HAS AN ADVANCE DIRECTIVE ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD~~
4 ~~ISSUED TO THE APPLICANT.~~

5 ~~(D) AT THE TIME THE APPLICANT AUTHORIZES THE ADVANCE DIRECTIVE~~
6 ~~NOTATION ON THE DRIVER'S LICENSE OR IDENTIFICATION CARD, THE~~
7 ~~ADMINISTRATION SHALL NOTIFY THE APPLICANT THAT THE ADVANCE DIRECTIVE~~
8 ~~NOTATION CAN BE REMOVED ONLY ON WRITTEN NOTICE TO THE ADMINISTRATION.~~

9 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
10 Health and Mental Hygiene ~~and the Motor Vehicle Administration each~~ shall report
11 to the Senate Education, Health, and Environmental Affairs Committee and the
12 House Health and Government Operations Committee on or before October 1, 2005,
13 in accordance with § 2-1246 of the State Government Article, on the implementation
14 of this Act, by the Department and the Administration, respectively.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2004.